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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,828

10/24/2003

Kurt Schunke

SCHUNKE-4

1488

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7590

06/08/2005

HENRY M FEIEREISEN, LLC

350 FIFTH AVENUE

SUITE 4714

NEW YORK, NY 10118

EXAMINER

FENSTERMACHER, DAVID MORGAN

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/693,828

Applicant(s)

SCHUNKE ET AL.

Examiner

David M. Fenstermacher

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to the amendment of 3/18/05. Claims 1, 3-9, 11-13 are pending. This action is not final.

### ***Drawings***

2. The drawing objection has been withdrawn. With regard to claim 2, this is moot since the claim has been cancelled. With regard to claim 6, the Examiner agrees that the intended connection of the claimed device is not, in this case, required to be shown in the drawings as the disclosure as a whole is sufficient for an understanding.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-9, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Norfolk et al. (6,021,692).

Norfolk et al. shows the claimed invention in, for example in figure 5, where a base (58) supports a hollow shaft (82); the hollow shaft having a metal gear attached thereto and in engagement with another gear resulting in a drivetrain. The drivetrain being driven by an electric motor. The gears being supported solely on the base without any support from the surrounding cover (54). The reference still being a 102(b)

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against the claims, because claim 1 requires that the carrier (or base) which supports the plurality of gear wheels define a separate operational unitary structure in the absence of a housing, which Norfolk et al. does. Norfolk et al. provides this by the removal of the cover. When the cover is removed the gears are still solely and adequately supported by the base which meets the claim language "define a separate operational unitary structure in the absence of a housing". In other words, the claim does not preclude the use of a cover, therefore, the device of Norfolk et al., although providing a cover, still anticipates the claims.

With regard to the claims to the orientation of the gearwheel on the base, the gears of Norfolk et al. are on the left and right "sides" of the base, as best seen in figure 4.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-9, and 11-13 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant argues that the device is novel because it does not **require** a housing to maintain integrity of the structural parts. The housing being the portion which encloses the side opposite the carrier. In the above cited reference, the cover (22) is basically just a dust cover and not required for structural integrity. It seems to the Examiner that Applicant's inventive idea is to have all the gears mounted on and supported by a single piece. When this is done, the other side becomes optional. The

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Examiner concedes that it is traditional to utilize both sides of the cover to rotationally support individual gears. Norfolk et al. shows that this is not an entirely new idea to mount and support all the components on one side. However, Norfolk et al. does show the use of a non-structural cover which is not required for the routine operation of the device and is therefore not a mandatory part. Thus it could easily be removed. Again, note that the claims do not require a cover to be absent, just a base to define a separate operational unitary structure in the absence of a housing. This language is anticipatorily met by Norfolk et al.

### ***Conclusion***

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Fenstermacher whose telephone number is 571-272-7102. The examiner can normally be reached on 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 571-272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David M. Fenstermacher

Primary Examiner

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6/3/05